

CHAPTER 5

INTRODUCTION TO THE ACQUISITION PROCESS

The Livingston's House Dilemma

Mr. and Mrs. Livingston decide to build a house on a lot they own near a lake. They want to use it as a vacation house for the next few years, and then make it their permanent retirement home.

They decide to start their project immediately to take advantage of current low interest rates and to have the house ready for use next spring — about 9 months from now.

Having made the decision to proceed, they realize that they must make decisions about the house itself:

- *Should they design it themselves?*
- *Should they just give a good builder a sketch and ask the builder to “fill it in” while doing the actual building?*
- *Would it be better to hire an architect to create a complete design and then get a good builder to build it according to the design?*

Mr. and Mrs. Livingston decide to use an architect. They engage Ms. Allen, an architect of good reputation whose office is near the building site. Ms. Allen develops a set of plans and specifications that they like.

They are not sure who should build the house. After discussions with Ms. Allen, they decide to invite builders from the area to submit bids. Four builders submit bids. Based on their discussion with the architect, the Livingstons believe the house will cost about \$130,000. The bids they receive are:

<i>Bidder A</i>	<i>\$160,000</i>
<i>Bidder B</i>	<i>134,000</i>
<i>Bidder C</i>	<i>116,000</i>
<i>Bidder D</i>	<i>105,000</i>

CHAPTER 5

The Livingstons are excited about the bid from Bidder D. But Bidder D does not intend to start right away, and probably would not have the house ready until next fall—if then. Also, Bidder D's timing might have a serious impact on financing.

Next they consider Bidder C. They learn that until recently he was a carpenter in the area. Word of mouth has it that he never was able to hold a job for more than a few months because of his lack of skill and poor work habits. The Livingstons decide that it would be too risky to give him the job.

Then they consider Bidder B. Mr. Butler has a good reputation, does good work, finishes jobs on schedule, and has solid recommendations from several families for whom he had built similar homes.

After a meeting with Ms. Allen and Mr. Butler, the Livingstons sign a contract with Mr. Butler. Because of the distance from their present home to the building site, they realize they will not be able to see that the work is being done properly. They engage Ms. Allen to make periodic inspections of the work and to certify progress so that Mr. Butler can get progress payments from the bank. It is clearly understood, however, that any change or any faulty work has to be reported to the Livingstons so that they can decide what action to take.

Learning Objectives

- 5-1 Identify the three phases of the acquisition process and related business issues.
- 5-2 Identify the five main functions of the Acquisition Planning phase.
- 5-3 Identify the four main functions of the Contract Formation phase.
- 5-4 Identify the five main functions of the Contract Administration phase.
- 5-5 Describe the relationship between acquisition goals and functions.

Exhibit 5-1. Learning Objectives.

5.1 ACQUISITION PHASES AND RELATED BUSINESS ISSUES

Perhaps you have had an experience similar to the Livingstons. You may have faced the same issues and, given those issues, may have had to make the same basic business decisions.

5.1.1 The Acquisition Planning Phase

The purpose of this phase is to decide whether to contract for the requirement and, if that is the decision, lay the groundwork for soliciting and awarding the contract. Related issues:

1. What supplies and services are required for our mission and how do we initiate the process of contracting for our requirements, in terms of approvals, funding, and market research?
2. How can we best describe and communicate our requirement to the private sector?
3. Who should we consider for the work (e.g., A required source? One or more small business concerns? A single source? All potential competitors?)
4. If we plan to compete the award, what factors should apply in making our selection, and what method (e.g., simplified acquisition, sealed bidding, or negotiations) should we use to award the contract ?
5. What business terms and conditions should be the basis for soliciting offers from the private sector?

5.1.2 The Contract Formation Phase

The purpose of this phase is to solicit offers or quotations, evaluate offers or quotations, and award the contract. Related issues:

1. How do we solicit offers (i.e., bids or proposals) or quotations from the contractors in whom we are interested?
2. If soliciting bids, how do we evaluate bids?
3. If soliciting quotations or proposals, how do we evaluate the contractor's submissions and, if necessary, negotiate the terms and conditions of the contract?
4. How do we award the contract and handle any complaints from offerors who were not selected?

5.1.3 The Contract Administration Phase

The purpose of this phase is to administer the awarded contract. Related issues:

1. What is required to initiate work under the contract? If necessary, how can we modify the contract to accommodate unexpected changes in the Government's requirements, exercise an option, or place a task or delivery order?
2. How can we be sure the work is done according to the contract, and what steps can we take if things go wrong?
3. When, what, and how do we pay the contractor?
4. How do we enforce compliance with contract clauses having to do with Government furnished property, intellectual property, and socio-economic goals?
5. What if the contractor alleges that we have not lived up to our end of the contract? What if we need to terminate the contract, either because we no longer want the deliverable or because the contractor is not performing as required by the contract? How do we close the contract out?

Each of these issues represents an acquisition function, whether the acquiring is being done by the Livingstons, corporations, State or local Governments, or the Federal Government. For each of these issues, you will find a corresponding function in Exhibit 5-2 under the matching phase and number.

5.2 FUNCTIONS OF THE FEDERAL ACQUISITION PROCESS

FUNCTIONS OF THE ACQUISITION PROCESS

Acquisition Planning Functions

1. Determination of Need.
2. Analysis of Requirement.
3. Extent of Competition.
4. Source Selection Planning.
5. Business Terms and Conditions.

Contract Formation Functions

1. Sources.
2. Bid Evaluation.
3. Proposal Evaluation.
4. Contract Award.

Contract Administration Functions

1. Initiation of Work and Modification.
2. Quality Assurance.
3. Payment and Accounting.
4. Special Terms.
5. Contract Closeout or Termination

Exhibit 5-2. Functions of the Acquisition Process.

What is Unique
About the Federal
Acquisition Proc-
ess?

While it involves the same basic phases and functions as any acquisition process, the Federal acquisition process differs greatly in the details of how those functions are performed.

In the first four chapters, you learned about:

- The goals of the Federal acquisition process (see Exhibit 5-3) and the environmental constraints on goal accomplishment.

- The role of the Congress, the President, and the Judiciary in acquiring supplies and services for the Government.
- The basic statutes and regulations that govern the acquisition process.
- The key players and participants in the Federal acquisition process and their respective roles and responsibilities.

These all weigh heavily in determining the steps in performing the functions of Exhibit 5-2 and how those steps are performed. The following chapters present each function and its related duties. You will learn that the Federal acquisition process, though prescribed and controlled to a large degree, still requires the exercise of judgement on the part of the players, particularly the CO. You will also learn how the process can, if properly and competently executed, help satisfy the goal in Exhibit 5-3.

GOALS OF THE FEDERAL ACQUISITION SYSTEM

Satisfy the customer by obtaining the optimum market response to requirements for supplies and services, in terms of impact on:

- Quality.
- Timeliness.
- Cost.

While:

- Minimizing business and technical risks.
- Accomplishing socioeconomic objectives.
- Maximizing competition.
- Maintaining integrity.

Exhibit 5-3. Goals of the Federal Acquisition Process.

Relationship Between Goals and Functions

In the final analysis, your performance of acquisition functions and related duties should be judged not by:

- How faithfully you have observed the letter of the applicable laws and regulations (although your acquisitions must comply with those laws and regulations).
- The extent of competition for the requirement (although maximizing competition is a sub-goal of the process).
- Whether you have obtained a lower price than in prior acquisitions for the supply or service (although price is an important factor .)

Rather, your performance at every step of the way in the acquisition process should, in the final analysis, be judged by its contribution to accomplishing the overall goals in Exhibit 5-3.

For example, you may perform every step of the procurement process in apparent compliance with the letter of the applicable laws and regulations. You may have succeeded in obtaining independently prepared offers from three competitors. Yet the prices might be unacceptably high because you:

- Entered the market at the wrong time (e.g., buying produce out of season).
- Used a specification that unnecessarily and unwittingly limited competition to a market segment characterized by premium prices.
- Ordered an uneconomic quantity.
- Imposed an unnecessarily tight delivery schedule relative to delivery terms and conditions that are prevalent in that market.
- Used the wrong type of contract (e.g., a firm fixed price contract for a market that is expecting a high rate of inflation during the period of contract performance).
- Imposed warranty requirements that are far in excess of what is customary for that market.

The bottom line: No function of the acquisition process or any related duty should be viewed as an end in itself. Rather, as you read about each function and duty in the following chapters, always be mindful of the overall goals in Exhibit 5-3.

CHAPTER 5

Relationship Between Goals and Functions

Exhibit 5-4 maps the phases and functions of the Federal acquisition process, in terms of the specific duties that are related to each function. In chapters 6 through 8, you will find a Unit for every duty in the exhibit.

Please note that not every function or duty applies to every acquisition. For example, many contracts are not modified, and few are terminated. Also be advised that the sequencing of functions or duties may vary from contract to contract. For example, some solicitations may be amended prior to the opening of proposals, as suggested by Exhibit 5-4, but others might not be amended until after the Government has begun to evaluate proposals.

Relationship to the Contract Specialist Workbook

The Federal Acquisition Institute publishes a Contract Specialist Workbook. The Workbook has a separate four to thirty page Unit for every duty in the map represented by Exhibit 5-4. Each Workbook Unit includes:

- The definitive statement of the duty (or duties) covered by the Unit and standards for performing the duty.
- A table of FAR cross-references, identifying every section of the FAR that applies to performance of the duty.
- A flowchart of steps in performing the duty.
- A step-by-step, task by task, breakdown of the duty — often with a separate standard for judging the performance of each task.
- Occasionally, a checklist or other such job aid.

ACQUISITION PLANNING

Determination of Need	Analysis of Requirement	Extent of Competition	Source Selection Planning	Business Terms & Conditions
<ol style="list-style-type: none"> 1. Forecasting Requirements 2. Acquisition Planning 3. Purchase Requests 4. Funding 5. Market Research 	<ol style="list-style-type: none"> 6. Requirements Documents 7. Use of Government Property and Supply Sources 8. Services 	<ol style="list-style-type: none"> 9. Sources 10. Competition Requirements & Unsolicited Proposals 11. Set-Asides 12. 8(a) Procurements 	<ol style="list-style-type: none"> 13. Lease vs. Purchase 14. Non-Price Evaluation Factors 15. Non-Price Evaluation Factors 16. Method of Procurement or Purchasing 	<ol style="list-style-type: none"> 17. Contract Types — Pricing Arrangements 18. Recurring Requirements 19. Unpriced Contracts 20. Contract Financing 21. Need for Bonds 22. Method of Payment 23. Procurement Planning

Exhibit 5-4. A Map of the Federal Acquisition Process

CONTRACT FORMATION

Solicitation of Offers	Bid Evaluation	Proposal Evaluation	Contract Award
24. Publicizing Proposed Contract Actions 25. Oral Solicitation 26. Solicitation Preparation 27. Preaward Inquiries 28. Prebid/Prequote/Preproposal Conferences 29. Amending/ Canceling Solicitations	30. Processing Bids 31. Bid Acceptance Periods 32. Late Offers 33. Price Analysis — Sealed Bidding 34. Responsiveness	35. Processing Proposals 36. Applying Past Performance, Technical, and Other Non-Price Factors 37. Price Analysis — Negotiations 38. Pricing Information From Offerors 39. Audits 40. Cost Analysis 41. Evaluating Other Offered Terms and Conditions 42. Award Without Discussions 43. Communications/ Factfinding 44. Extent of Discussions (Competitive Range) 45. Negotiation Strategy 46. Conducting Discussions/Negotiations	47. Debriefing 48. Responsibility 49. Subcontracting Requirements 50. Prepare Awards 51. Issue Awards & Notices 52. Mistakes In Offers 53. Protests

Exhibit 5-4. A Map of the Federal Acquisition Process (Continued)

CONTRACT ADMINISTRATION

Initiation of Work And Modification	Quality Assurance	Payment & Accounting	Special Terms	Contract Closeout Or Termination
54. Contract Administration Planning 55. Post-Award Orientations 56. Consent to Subcontracts 57. Subcontracting Requirements 58. Contract Modifications 59. Options 60. Task & Delivery Order Contracting	61. Monitoring, Inspection, and Acceptance 62. Delays 63. Stop Work 64. Commercial/Simplified Acquisition Remedies 65. Noncommercial Remedies 66. Documenting Past Performance	67. Invoices 68. Assignment of Claims 69. Administering Securities 70. Administering Financing Terms 71. Unallowable Costs 72. Payment of Indirect Costs 73. Limitation of Costs 74. Price and Fee Adjustments 75. Collecting Contractor Debts 76. Accounting & Estimating Systems 77. Cost Accounting Standards 78. Defective Pricing	79. Property Administration 80. Intellectual Property 81. Administering Socio-Economic & Other Misc. Terms	82. Claims 83. Termination 84. Closeout 85. Fraud & Exclusion

Exhibit 5-4. A Map of the Federal Acquisition Process (Continued)

